Remarks

The Office Action of July 10, 2006, and the references cited therein have been carefully studied.

The Examiner has rejected claims 13-17 and 19 on the ground of non-statutory obviousness-type double patenting. However, these claims have been cancelled, thereby rendering this rejection moot.

Claims 21-32 were rejected under 35 USC §112 as being indefinite. According to the Examiner, claims 21 and 27 indicate that the language relating to the pet treat being dispensed in a majority of equal intervals is indefinite since, if a pet treat is dispensed in all of the intervals, it will be dispensed in a majority of the intervals. This rejection is respectfully traversed.

Applicant has amended claims 21 and 27 to indicate that the pet treat is dispensed in a majority, but not all of the intervals. Consequently, reconsideration and withdrawal of this rejection are respectfully urged.

The Examiner has rejected claims 21-23, 25-29, 31 and 32 under 35 USC §103(a) as being unpatentable over the British patent to Lee. This rejection is respectfully traversed.

The present invention is directed to an apparatus as well as a method for dispensing pet treats. The apparatus includes a microprocessor with a program therein for calculating in a pseudo-random manner, the times in which a pet treat would be dispensed. The method, according to the present invention, is directed to a method in which the microprocessor utilizes the program to calculate, in a pseudo-random manner, the times in which the pet treat would be dispensed. As described in Amendment B, the pseudo-random method of dispensing the pet treats would sustain an animal's interest and would reduce isolation related anxiety in which a pet treat would not be dispersed for a long period of time.

The British patent to Lee describes an automatic animal feeder to dispense meals at particular times. Although the patent

to Lee does indicate that under special conditions these times can be altered, this altered daily feeding schedule would be specifically inputted by the pet owner. No calculation or determination is made by the microprocessor or any program provided therein.

The Examiner in the rejection appearing at page 4 indicated that the Examiner felt that functional language in the claims do not distinguish the invention from the prior art. Applicant has amended claims 21 and 27 to specifically indicate that the program in the microprocessor would calculate, in a pseudo-random manner, the exact times that the pet treats would be dispensed. It is submitted that this language is a limitation which can be contrasted from the prior art. There is absolutely no teaching in the Lee patent, nor any other reference of which applicant is aware, which includes a program for dispensing pet treats in a pseudo-random manner. Certainly, the patent to Lee does not include such a limitation, nor is applicant's claims 21 and 27 obvious in view of the Lee reference. Without the program as claimed in the present invention, the device described in the Lee reference would not be able to practice applicant's invention. Therefore, the claimed program is a structural limitation. Although the Examiner states "However, it would have been obvious to one of ordinary skill in the art to modify the teachings of Lee at the time of the invention to meet the physiological needs of the animal which inherently may create a random pattern.", the Examiner has applied no reference in which this occurs. Consequently, since it is believed that claim 21 does contain a structural limitation and method claim 27 contains a functional limitation for calculating a schedule of dispensing pet treats in a pseudo-random manner, these claims, as well as the claims depending therefrom do recite the invention in a patentable manner, and therefore should be allowed.

The Examiner has rejected claims 24 and 30 under 35 USC §103(a) as being unpatentable over the British patent to Lee in

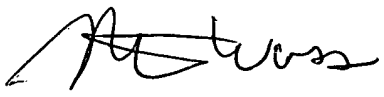
view of U.S. Patent 6,584,938 to Sherrill et al. This rejection is traversed.

Since claims 24 and 30 depend from claims 21 and 27 respectively, it is believed that these claims also recite patentable matter. Consequently, reconsideration and withdrawal of this rejection are respectfully urged.

It is believed that the invention, as currently claimed does recite the invention in a patentable manner. Therefore, reconsideration and allowance of this application are respectfully urged.

If any fees are due and owing, please charge same to Deposit Account 08-2455.

Respectfully submitted,



Mitchell B. Wasson
Reg. No. 27,408

October 5, 2006

HOFFMAN, WASSON & GITLER, P.C.
2461 South Clark Street, Suite 522
Arlington, VA 22202
703.415.0100
Customer No. 20741

Attorney's Docket: A-8281.C.AMC/cat